

VRS Extended Employment Rule Revision Advisory Committee

SESSION NOTES for January 27, 2015

Convened by Minnesota DEED Vocational Rehabilitation Services

Meeting Details

Date: Tuesday, January 27, 2015

Time: 10:00 am – 3:00pm

Location: ProAct, Eagan, MN 55121

Chair: John Sherman, VRS Extended Employment Program Director

Facilitator: Holly Johnson, Lanterna Consulting, Inc. contracted through Management Analysis & Development, Minnesota Management and Budget

Advisory members (or alternates) in attendance: *Jeff Bangsberg, Laura Bealey, Tim Dickie, Anita Kavitz, Dean Ritzman, Jeremy Gurney, Nancy Huizenga, Holly Johnson, Karen Johnston, Don Lavin (joined at 11:35am), Clayton Liend, Kim Peck (joined at 12:45pm), John Sherman and John Sherwood-Gabrielson*

Key Perspectives for EE Rule Revision Work

Throughout the process, advisory members are asked to keep a system wide view for the EE Rule Revision topic discussions. The five key perspectives are summarized as:

1. **Advocacy Organizations**
2. **Public Partners**
 - Local level - counties, municipalities, etc. e.g. Ramsey County
 - State level - agencies, etc. e.g. Department of Human Services (DHS), Minnesota Olmstead Plan
 - Federal level
3. **Extended Employment (EE) Providers**
4. **EE Workers**
 - Currently working
 - Eligible but not currently working
5. **VRS - EE Rule 'Owner' and Accountable Agency**
 - VRS EE team: John Sherman, Anita Kavitz and Wendy Keller
 - Other DEED and VRS staff

Welcome and Opening Remarks

The meeting was called to order. The facilitator Holly Johnson provided a brief overview of the meeting objectives and agenda.

Advisory Session Objectives:

1. Working session focused on understanding the design elements for a EE System funding model.
2. Gather key stakeholder perspectives and input to assist Minnesota DEED Vocational Rehabilitation Services in the EE Rule Revision process.
3. Continued exploration and discussion related to ADA, Olmstead and the Workforce Innovation and Opportunity Act (WIOA) and their combined implications for Minnesota's Extended Employment Rule revision.

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The advisory was reminded to review the draft December 17, 2014 session notes and asked to provide any edits by January 30, 2015 after which time the notes would be finalized.

Follow-up and Updates since the December 2014 Meeting

John Sherman provided an update on the EE legislative progress. The Governor's budget is scheduled to be announced this morning at 11am. VRS has requested monies for the transition work to support the various legislative mandates. While the draft language for EE components has been drafted, it is not yet permissible to share. John did however note that this group has already seen and discussed any of the language changes that are included in the draft language as part of the EE Rule Revision committee work to date such that there would be no surprises to this group.

Next John, asked David Sherwood-Gabrielson to share updates on the work related to the Minnesota Olmstead Plan. David distributed a number of documents to the committee. The state Olmstead Implementation office submitted a December 15, 2014 report per deadline due to the Court. The Governor's Olmstead SubCabinet's plan for Employment is focused on three specific action areas as follows:

- a. Action One: Expand integrated employment
- b. Action Two: Align policies and funding
- c. Action Three: Provide training, technical assistance, public information and outreach on employment in the most integrated setting

David Sherwood-Gabrielson also distributed a copy of the "Report to the Court, Olmstead Plan: Completion of Deliverables" presented by David Ferleger, the Court Monitor, dated December 31, 2014. The report contains a strong critique of the timeliness of Plan deliverables and measures. Specifically, the Court Monitor stated that the goals are not sufficiently defined in terms of measurable data. Both David Sherwood-Gabrielson of the Olmstead Implementation Office, and Dean Ritzman of Department of Human Services, shared with the advisory committee that agencies impacted by the Olmstead Plan have significant staff capacity limitations and funding issues in fulfilling the Court's mandates. They also noted that there are substantial data base complexities and issues. For instance, Dean Ritzman said while DHS has Supported Employment data from waivers they do not have nor currently collect the data needed to address the court's request. Work is continuing to see how the measurable data can be accomplished to comply with the Judge's decree.

David also provided a copy of a letter dated January 8, 2015 written by the Mid-Minnesota Legal Aid Minnesota Disability Law Center which states that Minnesota should consider using the same approach to addressing Olmstead as Rhode Island. Rhode Island was fined an amount that was determined needed in order to transition those from non-integrated settings into more community based services. It was also

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noted that Rhode Island is a significantly smaller state in many dimensions including population and geographic size both of which impact service variations and cost.

Next, David provided a copy of the Order filed on January 9, 2015 by US District Judge Donovan W. Frank. David pointed the advisory to the employment section found on pages 4-7. The state is required to file a revised Olmstead Plan by March 20, 2015. Measurable goals are the primary request issue from the Court Order.

The Workforce Innovation and Opportunity Act (WIOA) draft regulations that were originally scheduled to be released on January 22, 2015 have not yet been released. The Rehabilitation Services Administration (RSA) Commissioner has not provided a revised release date. Release is expected to be rescheduled for sometime 'in the spring'.

As a final update, John Sherman shared with the committee that VRS EE Program staff member Wendy Keller who has been out on medical leave is beginning to work again part time from home.

Design Element Considerations for a New EE System Funding Model

To begin the session John pointed the committee to the presentation entitled '**Redesign of the Extended Employment Funding System**' prepared by Anita Kavitz for the meeting. The presentation content was organized as follows:

1. Purpose
2. Objectives
3. Legal Requirements
4. Current EE System Review
5. Major Funding Considerations
6. Models for Consideration
7. Reference Materials (Slide #30 – 60)
 - Draft Definitions
 - Employment Statistics of Persons with Disabilities

Members were sent an electronic copy prior to the meeting as well as provided with a printed copy of the presentation at the meeting for reference during the working session. The presentation included both new content as well as appendix reference materials which includes previously developed and discussed draft definitions.

John began the session within the '**Major Funding Considerations**' section starting with a review of the EE '**Funding Assumptions**' provided on slides 18-19 which are as follows:

1. Maintain a predictable performance-based funding system, including:
 - Reimburse hours of work performed by persons served
 - Differential reimbursement rates based on average hourly wage of persons served
 - Competitive employment is first priority for funding
2. Capping non-competitive employment will not displace current persons served

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3. Downsizing of non-competitive employment models will be scheduled and predictable, and will demonstrate measured change over a reasonable time period
4. Possible consideration for impact of inflation on reimbursement rates
5. Incentives will be considered to facilitate/reward conversion
6. A review of Minnesota's job markets will be conducted to determine if financial consideration is warranted to promote competitive employment for persons served in depressed areas. Possible rate differential for economically depressed local job markets.
7. Consideration for CRPs to hire EE workers (providing EE supports and receiving EE reimbursement) for CRP-owned competitive jobs that are made available to the general labor force in the competitive labor market, i.e. receptionist, truck driver, janitor, etc.
8. Eliminate ineffective, burdensome requirements
9. Consider EE role for persons on CMS waivers
10. Objective, measurable definition of integrated and segregated employment options consistent with applicable federal and state law, regulation and rules.

John noted that funding assumption #6 is developed acknowledging the differences that occur statewide with economic conditions/other considerations impacting competitive employment levels. John asked the committee for their thoughts on this assumption. Tim Dickie asked what data source would be used for establishing and measuring the rates differentials and applicability. John said this is a good question as data is inconsistent at the county level. There is also a large degree of complexity and uncertainty regarding relevance and relatedness of available data to various jobs and job markets. There is some data available from the Department of Labor on job openings. A major question raised involves the ability to relate data with validity.

Nancy Huizenga added that other challenges for rural Minnesota compared to metro that impact employment include related factors such as availability of transportation. Jeremy Gurney asked how it would be possible to prove the correlations between various factors and local job markets. Tim Dickie asked if something like wage differentials data could potentially be used. John Sherman reiterated that the state is in a difficult situation given what has effectively become two different programs in the state for metro and Greater Minnesota. John said they are open to ideas that can help address the differentials.

Karen Johnston informed the committee that the US House is reintroducing a bill to eliminate the 14-C certificate. Others noted that similar bills have been introduced in the past and not succeeded. Laura Bealey shared that they believe it will pass at some point in the future and that they are concerned about what it will mean for individuals currently employed under the 14-C certificates.

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Regarding funding assumption #8, John said that while they hope to identify ways that the new Rule can promote less burdensome requirements that the VRS EE Program will continue to gather pay stubs as a vital data source to help make the case of the program's investment value and return.

Upon committee review of the full set of 10 funding assumptions, the facilitator called the question of the committee's support level for the funding assumptions. The committee expressed unanimous agreement regarding a shared understanding, agreement with, and support of, the EE model funding assumptions as presented for use in developing the new EE funding model.

Upon concluding review and agreement around the funding assumptions, John moved the committee discussion to presentation slide #20 titled '**Methods of Capping Non-competitive Employment**' which outlines potential mechanisms to restrict entry of new participants through either the restriction of funds and/or restrictions on participants.

Karen Johnston expressed concern on restrictions to the number of participants. She said that many individuals who enter into employment via non-competitive employment do so with the hope and/or objective of moving into competitive employment when possible and in alignment with the individual's employment objectives. Nancy Huizenga said that disallowing enrollment of any new participants, is more restrictive on the provider's options for serving.

John also noted that it is reasonable to expect that in a true informed choice model, there may be individuals who go through the entire process and still choose a non-competitive employment position and environment over competitive employment. The question is how does preserving non-competitive employment as a valid choice for individuals balance with the clear directive from ADA, Olmstead and WIOA towards increasing competitive employment opportunities and levels. John said that he is looking to this advisory body for a lot of thought and ideas for how we might go forward with the polarity of those two objectives.

Next, Anita Kavitz reviewed slide #21 '**Use Levels to Establish Baselines & Tracking Progress**' to show connections with fund levels at both the primary and secondary fund levels. John pointed the advisory committee back to funding assumptions to remind members of the intention that the new EE Funding model not displace people currently in non-competitive employment. John voiced concerns that if we don't have dollars for movement to transform noncompetitive employment to competitive employment will we be meeting Olmstead's directive? What happens to the ongoing obligations to the people already in the program? Clayton Liend asked about continued use of the attrition approach to maintain support for individuals who have been in Center Based Employment for 30+ years while still providing options for others who wish to move to Community Employment. In support of this approach, Clayton shared that their

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organization is closing their Grand Rapids center based location because they have moved many of those previously employed there into community based and are now down to about 15 individuals in center based so it is no longer a sustainable business model for them to retain the center based program at that location. He said that the town of Crookston has recently lost the primary employer so that center will likely close too. Laura Bealey provided another similar experience noting that they are pulling out from a center based operation in Fairmont and approaching the same likely action in New Ulm as well since the employer Kraft is pulling out from MRCL. Laura said they are working hard to try to find work for the 100+ individuals impacted by Kraft's decision.

At this point in the discussion, Jeremy Gurney said that while they have a large enclave operation, that the advisory committee's work here should be focused on supporting the primary purpose of EE funding. He stated that EE funding should not be funding the 15 people who should go to a Day, Training and Habilitation program, rather that EE funding should be focused on competitive employment services. Laura noted that in rural locations like Fairmont, another employer is leaving and there are no jobs there so where are people going to go? In house is where we create a work environment where they can thrive. If you take away that work environment, they have nothing. Jeremy responded that he does not think anybody is saying that in-house work environments should go away rather that the work of the EE Rule Revision Advisory should be focused on what EE monies should support based on the program's objectives.

Anita drew the advisory's focus to slide #15 to review the data that indicates EE workers exiting non-competitive employment are not entering supported employment and that EE is shrinking. In addition, John noted that if you increase rates and don't increase the total available program funds, we are likely to just be serving fewer individuals. Jeremy said that if people leave Community Employment that they do not move to Supported Employment so as a provider they send the individuals to VRS for a PBA or to the county or to ticket to work. Karen added that sometimes they do not offer Supported Employment at all because they have already maxed out EE contracts and there is no funding available to support the services. Anita said that providers' reporting on whether those in Center Based Employment are leaving for Community Employment or other reasons is highly inconsistent.

Clayton asked if you cap individuals, will individuals be able to 'jump back' to Center Based Employment if they do not thrive in Community Employment? John said the challenges include questions and judgments as to what is the appropriate level of service and what are the dollar resources need to meet the service needs. Given what has emerged in the current system as effectively a 'two state' (metro and Greater Minnesota) model, going forward what is the balance? How do we make sure that we are not cutting off possibilities for competitive employment? Don Lavin voiced advocacy concerns regarding who decides that 'people can't' work and when? It's a problem today that needs to be considered in the new model. John said that Judge

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Donovan Frank has been clear that the state needs a better understanding of the progression of where people go within the system, what services they use, and what happens to people during the course of their lives. He cited the example of Rhode Island which has established a measurements and tracking system. Judge Frank is asking how we know what is happening to people and specifying that any model must incorporate these standards with measurable goals.

Next John reviewed the content on slide #22 stressing the importance of objective, measurable criteria for every level for service models within each fund. He is proposing continued monitoring/auditable standards and appropriate involvement by external auditors. Jeff Bangsberg asked if there might be a way to add criteria for auditors such that the EE Program could obtain information regarding what happens to people 'down the road'. Anita Kavitz stated that an EE Program Audit Standards work group currently meets to evaluate and update the standards on a regular basis. She reminded the advisory committee that every service level added to the funding model adds significant costs to development, monitoring, and auditing. Jeff asked if there was anything that could be removed from the current model that is no longer needed. Anita noted that EE Rule Advisory Committee members Tim Hammond and Rod Pederson are also members of the EE Program Audit Standards work group that she chairs. The audit standards work group is focused on ensuring that key and essential components of the program are audited in an efficient and relevant manner. To facilitate this work, the work group is composed of both providers and auditors.

John Sherman explained that if we make the funding system more complex, then the auditing functions will also become more complex and expensive to administer. Auditing expense must come off the top of what a provider receives. Don Lavin inquired if there was an interagency group charged with creating standards for everyone and if there will be a more standardized set of measures developed. David Sherwood Gabrielson explained that an interagency panel has been decreed by the Minnesota Olmstead Plan however the 'how' and 'when' of the panel's work has yet to be developed. He noted that the Employment First policy is rooted in the important and necessary interconnections between DHS, DEED and MDE. David said that while the Olmstead implementation effort is specifically charged with leading the services transformation work, the plan and resources to meet the directives and mandates have not yet been secured. Therefore, both David and John are encouraging the advisory committee to move forward with development of measures for the EE Program as much as possible while staying connected with the interagency panel's progress.

John reminded the advisory committee that Minnesota is operating with an employment reporting system which has been going for a number of years and that waiting until comprehensive changes in the larger universe are complete before creating a structural funding model for the EE rule revision could delay the process by approximately a 3-5 year development process. Dean Ritzman agreed with this high-

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level time estimate. Whereas, if the EE work continues and if we are able to secure funding, we may be able to have a new reporting system as early as 2016.

Don Lavin agreed that he does not wish to slow the process nor progress of the EE rule revision work and asked the advisory to continue to be attentive to Judge Frank's order for standard measures. He asked if the EE Program Audit Standards work group will be part of the standard measures development. Anita clarified that the EE Program is not a part of the interagency employment panel.

David shared that from his perspective in looking at the slides for today, he believes the considerations being discussed are likely well aligned with where the interagency may go. The panel has made recommendations for what resources are needed to address the significant operational complexity and resource issues, and they are now waiting to see what is provided by the state to support the work recommendations.

In addition to the Interagency Panel work, John noted that the EE Program will also need to create definitions in the new Rule to match what is now law through the Workforce Innovation and Opportunity Act (WIOA). WIOA is far more stringent than what is in current state statute therefore John anticipates that going forward; our system wide standards will most likely be based upon WIOA definitions.

Next, John reviewed slide 23 'Establish Conversion Goals'. Don Lavin cautioned the advisory that when we say that we want to reduce non-competitive employment in an incremental way, that if we assume it will continue - then it will. He said he is often asked 'how can you say that everyone is employable?' to which he frequently responds 'how can you say that everyone who *doesn't* have a disability is employable?'. Don said he prefers to focus on the Employment First policy's expectations which state a goal that people with disabilities will have employment opportunities comparable to people without disabilities. Don urged the committee that even with limited resources, we need to shift our thinking from gradually moving the system in the direction that it needs to go to moving towards a direction that is truly transformational. He stressed that people need the right encouragement and experiences; and that there are lots of ways people can work including self employment and customized employment. Don believes we are at 'an interesting point in time' and encouraged the advisory to be progressive in our thinking: "if we don't think people "can" then why will they? we need to be the leaders."

Jeremy Gurney agreed that the group should strive for leadership and transformation. He said we "have to set our goal at elimination on non-competitive employment, anything short of that is an injustice and then we will have to come back in five years and do it (rule revision) over again." He also encouraged the advisory to think "futuristic" and that "anything short of elimination we are wasting our time."

Tim Dickie cautioned that system changes need to be plan full. He advised against setting arbitrary dates and/or amounts for fear that if done poorly, we will just be

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serving different people not necessarily converting any existing employment opportunities. Tim advocated for a plan full approach with the ability to develop a tracking system to measure transformation or we risk simply "moving people around without making real change." Clayton Liend agreed that there needs to be a change and at some time in the future the Center Based Employment will go away however he stressed that these changes are not simple transitions and it will take a lot of changes for not only providers but the general public and business partners.

Karen Johnston reinforced the importance of being plan full about reducing and ultimately eliminating Center Based Employment in this Rule per federal direction, policies and court decisions. As it relates to Community Based Employment, Karen said we must understand and strive to meet the needs of people who are in CBE today. Nancy Huizenga stated her agreement with Karen's comment and said that if EE is to support the movement from center based to competitive then there needs to be some resources/funding to support making that shift happen.

Laura Bealey shared an example of one of their (center) workshops that used to serve 400 individuals and now has 40. Laura said that community employment is a valid option for some of those individuals and that it is difficult to think of it as non-competitive employment when it is serving some people very well. Given the major mandates of Olmstead and WIOA, they are telling our employees that "it's here" and that "we will have to make changes". Real life examples like closing our Fairmont center make us very sad because we don't see alternatives for employment in rural Minnesota for those individuals affected. We are genuinely concerned because we have people with house payments who are going to be without employment.

John established that there is consensus on Center Based Employment and that the advisory still has differences on Community Employment. He asked the advisory for input on establishing rate conversion (slide 23). Jeremy noted that based on information already reviewed by the advisory at earlier sessions, that the natural rate of attrition is not sufficient and that we will need to develop a more intentional plan. The data shows that attrition alone has not made enough of an impact to expect attrition alone will transform the system - we need an intentional plan with "leeway for the stepping stones" between center based and competitive employment. The advisory discussed various 'stepping stones' that could help individuals move into and retain competitive employment including vocational learning and skills building. Jeremy suggested the advisory develop some sort of a measurable goal such as transitioning 10% of non-competitively employed individuals a year for 10 years as an idea for the model. Nancy said she would be in favor of a funding model that provides transition support for people moving to greater levels of competitive and integrated employment.

Jeff Bangsberg noted that as a representative of Consortium of Citizens with Disabilities (CCD), he knows that some CCD members want Center Based Employment (CBE)

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available for people with disabilities. He said a lot of people recognize the need to start reducing CBE and the program for noncompetitive employment. Jeff said that while he used to be adamantly opposed to CBE, he now has a better understanding of the broader population we're serving and that his compassionate side wants to ensure that there is some true choice for people. "I would hate to see those programs taken out in 'one swoop'" Jeff agreed with others that a gradual reduction would be better though he believes that some members of CCD may want CBE to continue to be an option forever. Jeff also shared that within the disability community, there are a minority that disagree with tenants of Employment First. While acknowledging the range of perspectives in CCD, Jeff shared that he thinks we need to move forward to competitive employment wherever we can while continuing to recognize that those who are still in Center Based Employment programs after so many years may not have the skills/comfort level/belief that they can thrive in other employment settings. Similar to other advisory members, Jeff said he would favor attrition rather than outright elimination or overly drastic reductions in Center Based Employment.

Karen asked the VRS EE program staff for their sense on what timeframe would be deemed acceptable for public hearing. She asked what makes the most sense... is it five years, seven years? John Sherman replied that he does not believe we can do it in anything less than five years and asked about the committee's thoughts on 10 or 12 year timeframes. As a point of reference, John shared that Rhode Island's plan is based on 15 years. John also said he believes a critical question is "what is the age of the current population that will be impacted?" Our data shows that the number of new individuals going into Center Based Employment are down so it's the current people in the system that we need to understand for transition purposes. We also would need to look at the job markets and environment: what's available for more senior workers?

Clayton said that if the 14c certificate goes away, Center Based Employment services won't be feasible for any of the providers so that would be a game changer for services. David said that another factor at the individual level is how people will be able to exercise informed choice if there are little or no viable options. If there are no services or viable employers around, then informed choice cannot really provide any opportunities. How do we scale up the capacity for self employment, customized employment, and other models to accommodate the ~17,000 currently in waiver funded programs. Don noted that we're talking about transforming a system, so it's hard to isolate any one factor. Don believes that education has a role to help individuals be prepared for the labor force and that a viable system solution should include education.

Clayton shared that their organization has already told one county that they are shutting down their Grand Rapids center facility and he anticipates that the county will look to move those affected into other programs like DTH. He wonders that if in the end, it will cost the state even more money if we do not have sufficient employment options.

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Clayton expressed concerns that counties are inadequately aware and/or prepared for the changes being mandated by Olmstead and WIOA and that he has heard county social workers saying that the changes will not be made.

Jeff encouraged the advisory to make some recommendations to minimize any potential 'trauma' for the individuals who will be shifting from one place to another. Karen said that she agrees that a five to seven year transition is a minimum. She stated that the transformation of employment services will be required of all of us in order to meet the regulations and mandates. Whatever the draft rule provides, we should expect that it may get tweaked at public hearing but we will give it our best collective effort and know we did our best.

Anita said, as an analyst, she is interested in understanding where people are going within the system today. She said for Minnesota to comply with the Olmstead Plan, we need to show a "meaningful change". She said we can look at what's happening naturally and then try to minimize the disruption during the transition and transformation period. John agreed and said that we also need to look at the characteristics of who we're working with to understand what support they need. When you close down centers in Fairmont and New Ulm, what is necessary to support those in transition? What happens to those who can't transition to Competitive Employment? What can we do to assist the CBE reduction process while minimizing pain for providers and consumers? Anita suggested they consider different models appropriate for different populations e.g. Transition, pre-retirement older workers until they retire, etc.

Jeff asked where does Community Based/Enclave/Crews fit into the non-competitive phase out. He asked John Sherman if the advisory should address that level. John responded that he absolutely wants to hear from the advisory on the topic of phasing out non-competitive employment because it is explicit in the Minnesota Olmstead Plan and Department of Justice's legal opinions. Capping of non-competitive includes crews and enclaves according to their definitions. Karen noted that given the legal requirement, the question is not **if** we are going to do it but rather **how** are we going to do it. Options including "sun setting" provisions and outright elimination. Tim Dickie stated that if we rely on natural attrition, it does not appear to meet the spirit of Olmstead and WIOA of transitioning people from non-competitive to competitive employment. Karen agreed, saying that we have to set measurable goals and outcomes for what is currently community employment. Tim again raised the caution that we could establish caps and reduce it each year but it may not meet the intention of Olmstead of moving people to more competitive employment - it may simply end up serving other people. We have to look at the data to understand what truly supports effective movement and transition. Don said we might be able to improve the transition rates if we rebalance the resources.

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Karen said if we're being mandated to cap community employment, then how are we going to do it? Clayton said that the easiest way to do it would be to cap it at what it's at currently. Don said that while a cap at the current level would be simple it would not be transformational. Karen asked what if it went into competitive employment. Clayton speculated that even if we cap both areas, and create goals, it doesn't mean that individuals will go from EE to competitive employment. Instead, individuals may just go to waivers and then it won't be tracked. Jeff asked if there are ways to build incentives for transitioning into the funding model and what would they look like.

At this point in the meeting John and Anita shared a few draft models for review and input from the advisory. Anita noted that these are purely drafts for the purposes of discussion and development at this stage. The draft models contained various design variable combinations e.g. one rate, two rates and multiple rates for example purposes to start thinking about what a rate might look like. John said that rates can be derived a number of ways including simple averaging, averaging with norms, and average weighted by share of work hours. There are also many different ways that rates can be used to incent and/or discourage services. John and Anita asked people to review and think about the various ways a model could be developed to accomplish the design objectives.

John and Anita said they have a strong bias for a two fund system because a three fund system would be more complex and more expensive. He noted that if the question is what does competitive and non-competitive look like than the two fund model makes more sense. He noted that money incentives will likely mean the budget will serve fewer people overall. So the funding model really wrestles with what is the mix of dollars and how do we go about rebalancing dollars from non-competitive employment services to competitive employment services.

Jeff asked about potential unintended consequences for a two fund model. Anita responded that in a three fund model; via Olmstead we will have to report on all three funds and also according to competitive and noncompetitive so it will be the most expensive model by far. Jeff asked how rates impact provider clients. Don said another big question is how do you incent movement in the direction you want to go and help providers impacted with the economics of the transformation? He acknowledged that everyone around the table is at a different place in terms of the services and individuals they serve so it's hard to say what we should do overall because any change will impact each provider differently. Don said if dollars could "follow the person" then this challenge would eventually take care of itself.

Jeff said that based on his experience with this advisory and experiences with the members around the table in context outside of this advisory, he trusts this group to come up with a fair model that works for both providers and the clients that we all represent for this effort. Karen summed it up by saying that the advisory is committed

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to being plan full and building a timeline to the best of their collective ability that demonstrates we are accountable to addressing the requirements set before us legislatively and judicially. It will ultimately be up to individual agencies to figure out how the new plan impacts them and for each agency to provide clients with informed choices and support making any necessary changes. The advisory will work to develop a transition approach that will assist earnest providers in the transformation process and to address the variation and needs of impacted populations.

John then stated the need to rebase the rates which are outdated by a number of years. John believes that rates must be adjusted or the system will fall apart. Addressing rates includes identifying the guiding principles and understanding the anticipated impacts on individuals.

John said that despite our best efforts whatever we build will not be perfect so we will have to do our best to balance all the concerns and outcomes to create something we believe will optimize our system's capacity to serve those the EE Program was designed to serve. By definition, rebalancing the same level of resources will mean that some aspects will be reduced in the process of rebalancing in order to strengthen other aspects. There will be many factors to consider in the tradeoffs: If we slow on one side then we change the rate of change. If we accelerate the changes, we risk leaving more individuals behind. The rates themselves and the rate of change are both important. The complexity of this exercise is immense; however we must build something and we will do our best.

Clayton said that we don't want 10 different rates to have to explain to auditors and recommended that we keep the model simple. Don said that he believe that society still tends to underestimate people's abilities to work. Don said he thinks we have people in community employment who are currently over served. If we had used more of an IPS approach, we might not have so much of the long term extended employment and those funds could be used to extend capacity for others. Don said we also have to be very aware of families as we consider change expectations and processes.

Dean Ritzman noted that Disability Waiver Rates System (DWRS) also needs some modifications. Dean said the system needs to adjust the balances of what is Day Training and Habilitation (DTH), work crew programs and independent employment. He was skeptical about the possibility of completely eliminating center based options because the DTH program also works with people who have severe disabilities. We need to find a way to serve those individuals which is different than what happens in the DEED programs. The money has to be there to support the tremendous changes that are being demanded however none of the proposals to build the infrastructure and the pathways to get there are moving forward. It will take political will to secure the resources and commitment necessary. If we do not get the support and resources for

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system transformation, we will face the same scrutiny the Department of Justice has enforced in other states.

Jeff said that our recommendations must be developed to take into account the outliers with compassion and yet still have teeth in it for changes to occur. "If we don't do that, we haven't done our job." Dean asked about the skills people need to succeed in employment and reiterated that a systemic solution should include an augmented education system where people with disabilities have genuine opportunities in the colleges and community colleges. Dean asked if there was a way to repurpose the center based to become more of an educational/training employment service to give people with disabilities more marketable skills. Don said he agrees with Dean that education should be part of the solution and that we need to address post secondary as well. We need to do a better job of integrating education offerings for people with disabilities. Dean said that Minnesota State Operated Care Services (MSOCS) are starting to move people to other services and repurposing programs that work with our most challenging people.

Clayton wonders if Day Training and Habilitation will go the same way as what we're seeing here with Extended Employment given the push to move people from congregate settings to integrated settings. Dean said that Wisconsin has taken a unique stance by rebuffing the Department of Justice on Olmstead. John noted that with two providers around the table saying they are closing down center based facilities already based upon the failed economics of it, we need to look at the pieces that need to be picked up when center based facilities close. No matter what the courts do, the system is changing and center based is economically non-viable for most places without funding dollars.

John concluded by saying that the funding model includes establishing a rate(s) and the amount of dollars we will pay from the amount we receive from the legislature. How do we do this where there is no safety net for certain individuals and still make the changes? That is one of the biggest considerations behind the draft models, particularly the two fund model.

VRS Extended Employment Rule Revision Advisory Committee

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Recap of Advisory Committee Consensus and Key Points

The committee expressed unanimous agreement regarding a shared understanding of, agreement with, and support of, the EE model funding assumptions as presented for use in developing the new EE funding model. **The EE model funding assumptions** are:

1. Maintain a predictable performance-based funding system, including:
 - Reimburse hours of work performed by persons served
 - Differential reimbursement rates based on average hourly wage of persons served
 - Competitive employment is first priority for funding
2. Capping non-competitive employment will not immediately displace current persons served
3. Downsizing of non-competitive employment models will be scheduled and predictable, and will demonstrate measured change over a reasonable time period
4. Possible consideration for impact of inflation on reimbursement rates
5. Incentives will be considered to facilitate/reward conversion
6. A review of Minnesota's job markets will be conducted to determine if financial consideration is warranted to promote competitive employment for persons served in depressed areas. Possible rate differential for economically depressed local job markets.
7. Consideration for CRPs to hire EE workers (providing EE supports and receiving EE reimbursement) for CRP-owned competitive jobs that are made available to the general labor force in the competitive labor market, i.e. receptionist, truck driver, janitor, etc.
8. Eliminate ineffective, burdensome requirements
9. Consider EE role for persons on CMS waivers
10. Objective, measurable definition of integrated and segregated employment options consistent with applicable federal and state law, regulation and rules.

Recap of draft model comments and observations:

Two Fund model

Pros: Cleaner and less expensive to monitor, audit, and administer the system

Cons: Rougher on caps for community based services

Three Fund model

Cons: More complex, more expensive to administer and audit

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The advisory committee had an initial discussion and plans further consideration of the following draft concept and timeline as it relates to a new EE funding model: intentional reduction of Community Employment (CE) over seven years, with a goal of 50% of current funding levels at the end of that period.

The advisory committee has developed consensus on the following key points as it relates to a new EE funding model:

- a. We are recommending incremental elimination of Center Based Employment (CBE) within five years;
- b. We are recommending including both Center Based Employment (CBE) and Community Employment (CE) in the non-competitive fund, with different rates and two timelines;
- c. We are recommending the sun setting of one of the funds - center based;
- d. We are recommending capping non-competitive employment;
- e. We are recommending that after center based is reduced and ultimately eliminated from the EE program, the resources move to other services;
- f. We are recommending that a better tracking system will be vital to the new model; and
- g. We believe that the implications of the special wage certificate will impact timing for Community Employment (CE) based on what happens with the subminimum wage under WIOA regulations yet to be released.

Open Questions yet to be addressed for a two fund model:

- 1. Overproduction
- 2. Wage Incentive
- 3. Unmet Needs
- 4. New Providers
- 5. Affirmative Business Enterprise (ABE)

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Wrap Up

In conclusion, John thanked the advisory committee for all their work and said he and Anita will move forward with the inputs provided to further develop draft models for the February 24th meeting.

The next committee meeting is anticipated to delve into potential rates for the system and a transition capping model as well as additional model issues including overproduction and wage incentives. The committee will also talk further about potential incentives to assist in the transition and transformation of the program in alignment with Olmstead, Minnesota's Employment First Policy and the new Workforce Innovation and Opportunity Act (WIOA).

John said they are hopeful that by March they may have a better sense for where the policy legislative language exists and may be in a position to share draft rule language.

Next Steps:

1. The advisory agreed to continue proactive sharing and cascading of the work of the VRS EE Rule Revision Advisory Committee with other EE system members notably the membership of Minnesota Organization for Habilitation and Rehabilitation (MOHR) for the benefit of input and support for the revision.
2. The next advisory committee meetings will be as follows:
 - a. **Tuesday, February 24th**, 10:00am to 3:00pm
 - b. **Tuesday, March 17th**, 10:00am to 3:00pm
 - c. Hosted at Proact, 3195 Neil Armstrong Blvd, Eagan, MN 55121.
3. Preview for February 24, 2015 Working Session:
 - a. John Sherman will update the draft models incorporating input generated at today's meeting.

Meeting Adjourned

The meeting was adjourned at 3:00pm.